

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gregory Harms v. Edward Silva

Harms · No. 2:25-cv-1048 CSK P · Decided April 15, 2025

OPINION

(HC) Harms v. Silva

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 GREGORY HARMS, No. 2:25-cv-1048 CSK P

12 Petitioner, 13 v. ORDER

14 EDWARD SILVA,

15 Respondent. 16

17 Petitioner, a state prisoner proceeding through counsel, filed a petition for a writ of habeas 18
corpus pursuant to 28 U.S.C. § 2254. Petitioner paid the filing fee. 19 Petitioner states that he
filed, with the petition, a motion to stay pursuant to Kelly v. 20 Small, 315 F.3d 1063 (9th Cir.
2003) to exhaust unexhausted claims.¹ (ECF No. 1-2 at 12.) 21 However, the record does not
contain a motion to stay pursuant to Kelly. This Court also 22 observes that a stay pursuant to
Kelly includes amending the petition to delete any unexhausted 23 claims. Kelly, 315 F.3d at
1070. 24 Accordingly, IT IS HEREBY ORDERED that within twenty-one days of the date of this
25 order, petitioner shall file the motion to stay referred to in the petition. 26 /// 27 1 Petitioner
does not state that he will seek a motion to stay pursuant to Rhines v. Weber, 544 U.S. 28 269
(2005). 1 | Dated: April 14, 2025 ~

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3) Harm1048.100fee/2 UNITED STATES MAGISTRATE JUDGE 4 5 6 7 8 9 10 11 12 13 14 15
16 17 18 19 20 21 22 23 24 25 26 27 28